

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8082 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

and

MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PADMATEX ENGINEERING

Versus

STATE OF GUJARAT

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Appearance:

MR ARUN H MEHTA for Petitioners

MR V.B.Garania for Respondent No. 1, 2

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CORAM : MR.JUSTICE K.G.BALAKRISHNAN and

MR.JUSTICE J.M.PANCHAL

Date of decision: 12/02/98

ORAL JUDGEMENT

The petitioners challenge Annexure-D order passed by second respondent under section 33 of the Bombay Stamp Act, 1958. The petitioners had executed a document. The same was registered with the Sub-Registrar's Office,

Vadodara bearing no.8435, dated 19.9.1986. The second respondent issued a notice to the petitioners alleging that the document was under-valued and the proper stamp duty was not paid. The petitioners submitted objections to the notice, but could not be present at the time when the second respondent took-up the matter for hearing and the impugned order was passed on 22.6.1992. The petitioners contend that prior to execution of the document, there was an agreement and as per the agreement, certain movable items were also agreed to be transferred, but by the registered document, movable items were not transferred and only immovable properties were transferred. The petitioners further submit that they could not submit this fact to the second respondent when the impugned order was passed.

2. Heard the learned Counsel for the petitioner and the Counsel for the respondents. Having regard to the facts and circumstances of the case, we feel that for the ends of justice, the petitioners shall be given an opportunity to submit their case before the 2nd respondent. In the result, we set aside the order Annexure-D, dated 22.6.1992 passed by the 2nd respondent and direct the 2nd respondent to consider the matter afresh and the petitioners be given reasonable opportunity of being heard. Till final order is passed in the matter, no coercive proceedings shall be taken to recover the amount.

Rule is made absolute accordingly. No order as to costs.

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